



General Assembly

February Session, 2000

Raised Bill No. 5884

LCO No. 2430

Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

***An Act Concerning The Authority Of The Treasurer Regarding
Investment Of State Trust Funds.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 3-13b of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) There is created an Investment Advisory Council which shall
4 consist of the following: (1) The Secretary of the Office of Policy and
5 Management who shall serve as an ex-officio member of said council;
6 (2) the State Treasurer who shall serve as an ex-officio member of said
7 council; (3) five public members all of whom shall be experienced in
8 matters relating to investments. The Governor, the president pro
9 tempore of the Senate, the Senate minority leader, the speaker of the
10 House of Representatives and the minority leader of the House of
11 Representatives shall each appoint one such public member to serve
12 for a term of four years. No such public member or such member's
13 business organization or affiliate shall directly or indirectly contract
14 with or provide any services for the investment of trust funds of the
15 state of Connecticut during the time of such member's service on said
16 council and for one year thereafter. The term of each public member in

17 office on June 30, 1983, shall end on July 1, 1983. The appointing
18 authority shall fill all vacancies of the public members; (4) three
19 representatives of the teachers' unions, and two representatives of the
20 state employees' unions. On or before July 15, 1983, the teachers'
21 unions shall jointly submit to the State Treasurer a list of three
22 nominees, and the state employees' unions or a majority thereof who
23 represent a majority of state employees shall jointly submit to the
24 Treasurer a list of two nominees. On or before July 30, 1983, the
25 Governor shall appoint five members of the council from such lists, for
26 terms of two years. Any person appointed to fill a vacancy or to be a
27 new member at the expiration of a given term, whose predecessor in
28 that position was either a representative of one of the teachers' unions
29 or one of the state employees' unions, shall also be a representative of
30 such respective union group. Any such appointee shall be appointed
31 by the Governor from a list of nominees submitted to the Treasurer by
32 the teachers' unions or state employees' unions or such majority
33 thereof, as the case may be, within thirty days of notification by the
34 Treasurer of the existence of a vacancy or a prospective vacancy, or the
35 expiration or prospective expiration of a term. All members of the
36 council shall serve until their respective successors are appointed and
37 have qualified. No public member of the council shall serve more than
38 two consecutive terms which commence on or after July 1, 1983.

39 (b) The Governor shall designate one of the members to be
40 chairperson of the council to serve as such at his pleasure. The
41 Treasurer shall serve as secretary of said council. A majority of the
42 members of the council then in office will constitute a quorum for the
43 transaction of any business, and action shall be by the vote of a
44 majority of the members present at a meeting. Votes by members on
45 investment policies shall be recorded in the minutes of each meeting.
46 Members of said council shall not be compensated for their services
47 but shall be reimbursed for all necessary expenses incurred in the
48 performance of their duties as members of said council. The council
49 shall meet at least once during each calendar quarter and at such other
50 times as the chairperson deems necessary or upon the request of a

51 majority of the members in office. Special meetings shall be held at the
52 request of such majority after notice in accordance with the provisions
53 of section 1-225. Any member who fails to attend three consecutive
54 meetings or who fails to attend fifty per cent of all meetings held
55 during any calendar year shall be deemed to have resigned from office.

56 (c) (1) The Treasurer shall draft an Investment Policy Statement
57 which shall set forth the standards governing investment of trust funds
58 by the Treasurer. Such statement shall include, with respect to each
59 trust fund, without limitation, (A) investment objectives; (B) asset
60 allocation policy and risk tolerance; (C) asset class definitions,
61 including specific types of permissible investments within each asset
62 class and any specific limitations or other considerations governing the
63 investment of any funds; (D) investment manager guidelines; (E)
64 performance evaluation guidelines; (F) guidelines for the selection and
65 termination of providers of investment related services who shall
66 include, but not be limited to, investment advisors, external money
67 managers, investment consultants, custodians, brokers, legal counsel,
68 and similar investment industry professionals; and (G) proxy voting
69 guidelines. Such statement shall further include a description of the
70 role of the investment department staff in making decisions regarding
71 investment of trust funds, including any procedures or policies which
72 facilitate the management of information necessary for decision-
73 making related to trust fund investment and any procedures or
74 policies by which such information shall be disclosed to the public. A
75 draft of the statement shall be submitted to the Investment Advisory
76 Council at a meeting of said council and shall be made available to the
77 public. Notice of such availability shall be published in at least one
78 newspaper having a general circulation in each municipality in the
79 state which publication shall be not less than two weeks prior to such
80 meeting. Said council shall review the draft statement and shall vote to
81 approve or disapprove the statement. If the council has not voted to
82 approve a statement under this section before January 1, 2001, the
83 Treasurer shall submit a draft statement to the General Assembly
84 which may, by resolution, approve or disapprove the statement. On

85 and after July 1, 2001, any revisions or additions to the Investment
86 Policy Statement shall be made in accordance with the procedures set
87 forth in this subdivision for the adoption of the statement. The
88 Treasurer shall annually review the Investment Policy Statement and
89 shall consult with the Investment Advisory Council regarding possible
90 revisions to such statement.

91 [(c)] (2) All trust fund investments by the State Treasurer shall be
92 reviewed by said Investment Advisory Council. [The council shall
93 recommend to the State Treasurer investment policies consistent with
94 the law pertaining to the kind or nature of investment, including
95 limitations, conditions or restrictions upon the methods, practices or
96 procedures for investment, reinvestment, purchase, sale or exchange
97 transactions.] The Treasurer shall provide to the council all
98 information regarding such investments which may be relevant to the
99 council's review. The council shall promptly notify the Auditors of
100 Public Accounts and the Comptroller of any unauthorized, illegal,
101 irregular or unsafe handling or expenditure of trust funds or
102 breakdowns in the safekeeping of trust funds or contemplated action
103 to do the same within their knowledge. The Governor may direct the
104 Treasurer to change any investments made by the Treasurer when in
105 the judgment of said council such action is for the best interest of the
106 state. Said council shall, at the close of the fiscal year, make a complete
107 examination of the security investments of the state and determine as
108 of June thirtieth, the value of such investments in the custody of the
109 Treasurer and report thereon to the Governor, the General Assembly
110 and beneficiaries of trust funds administered, held or invested by the
111 Treasurer. With the approval of the Treasurer and the council, said
112 report may be included in the Treasurer's annual report. [The
113 provisions of this section shall apply to all investments made by the
114 Treasurer for both trust and civil list funds.]

115 (d) The Investment Advisory Council shall be within the office of
116 the State Treasurer for administrative purposes only.

117 (e) For the purposes of this section, "teachers' union" means a
118 representative organization for certified professional employees, as
119 defined in section 10-153b, and "state employees' union" means an
120 organization certified to represent state employees, pursuant to section
121 5-275.

122 Sec. 2. Subsection (a) of section 3-13d of the general statutes is
123 repealed and the following is substituted in lieu thereof:

124 (a) Notwithstanding any other provision in the general statutes or
125 elsewhere to the contrary, the Treasurer shall invest as much of the
126 state's trust funds as are not required for current disbursements in
127 accordance with the provisions of section 45a-203 or the provisions of
128 this part. [Notwithstanding the provisions of this section or any other
129 provision in the general statutes or elsewhere to the contrary, the
130 Treasurer shall not invest more than fifty-five per cent of the market
131 value of each such trust fund in common stock, except in the event of a
132 stock market fluctuation that causes the common stock percentage to
133 increase and the Treasurer deems it in the best interest of such trust
134 fund to maintain a higher percentage of equities, provided the
135 Treasurer shall not allow the market value of each such trust fund in
136 common stock to exceed fifty-five per cent for more than six months
137 after such fluctuation occurs. Investments in real estate investment
138 trusts (REITS) shall be considered alternative investments and not
139 common stock investments under this section.] All trust fund
140 investments shall be made in accordance with the Investment Policy
141 Statement adopted under section 3-13b. In order to increase the income
142 for each such combined investment fund established pursuant to
143 section 3-31b, the Treasurer may enter into repurchase agreements or
144 lend securities from each such fund, provided that at the time of the
145 execution of the repurchase agreement or the loan at least one hundred
146 per cent of the market value of the security sold or lent shall be
147 received as consideration in the form of cash or securities guaranteed
148 by the United States government or any agency of the United States
149 government in the case of a repurchase agreement or secured by cash

150 or such securities in the case of a loan. At all times during the term of
151 each such repurchase agreement or the term of each such loan the
152 consideration received or the collateral shall be equal to not less than
153 ninety-five per cent of the full market value of the security and said
154 consideration received or said collateral shall not be more than one
155 hundred thousand dollars less than the full market value of the
156 security. The Treasurer may sell call options which would give the
157 holders of such options the right to purchase securities held by the
158 Treasurer at the date the call is sold for investment purposes, under
159 such terms and conditions as the Treasurer may determine. Among the
160 factors to be considered by the Treasurer with respect to all securities
161 may be the social, economic and environmental implications of
162 investments of trust funds in particular securities or types of securities.
163 In the investment of the state's trust funds the Treasurer shall consider
164 the implications of any particular investment in relation to the foreign
165 policy and national interests of the United States.

166 Sec. 3. (NEW) Subject to the Investment Policy Statement adopted
167 under section 3-13b of the general statutes, as amended by this act, no
168 contract for services related to the investment of trust funds, as defined
169 in section 3-13c of the general statutes shall be awarded to a provider
170 of such services until the Treasurer's recommendation of a provider is
171 reviewed by the Investment Advisory Council. The Treasurer shall
172 provide notice of such recommendation at a meeting of the council.
173 Not later than forty-five days after such meeting, the council may file a
174 written review of the Treasurer's recommendation concerning the
175 selection of such provider with the Office of the Treasurer where it
176 shall be available for public inspection. If the Investment Advisory
177 Council fails to file a review within such period, the Treasurer may
178 proceed to award the contract.

179 Sec. 4. Section 3-13d of the general statutes is amended by adding
180 subsection (e) as follows:

181 (NEW) (e) Notwithstanding any provision of the general statutes,

182 neither the Treasurer, the Deputy Treasurer nor any acting Treasurer
183 shall make a private equity or real estate investment or execute a
184 contract for services related to the investment of trust funds, as defined
185 in section 3-13c of the general statutes, without the approval of the
186 Investment Advisory Council, for the balance of the Treasurer's term
187 of office, on or after any of the following events: (1) The defeat of the
188 Treasurer (A) in a ballot for the party nomination for Treasurer at a
189 convention where said Treasurer was a candidate for nomination, (B)
190 in a primary for nomination for said office where said Treasurer was a
191 candidate for nomination, or (C) upon the completion of a recanvass of
192 the returns from such primary under section 9-445 or 9-446, whichever
193 is later, (2) the defeat of said Treasurer (i) in the election for said office
194 or (ii) upon the completion of a recanvass of the returns from such
195 election under section 9-311, 9-311a or 9-311b, or (3) the resignation of
196 the Treasurer, provided this section shall not apply to a Treasurer
197 approved by the General Assembly under section 9-213 of the general
198 statutes, as amended by section 15 of this act.

199 Sec. 5. (NEW) (a) Prior to the Treasurer entering into a contract for
200 the investment of any trust funds, as defined in section 3-13c of the
201 general statutes, in any security, any broker or dealer in securities,
202 investment manager or securities fund manager who would be a party
203 to that contract shall disclose to the Treasurer and to the Department of
204 Banking, in writing, all third party fees attributable to such contract.
205 Such disclosure shall be in the form of an affidavit sworn to or
206 affirmed by such broker, dealer or manager. Information disclosed
207 under this subsection shall be made available for public inspection.
208 The direct purchase or sale of individual securities under such contract
209 shall be executed only through banks, brokers, or dealers that have
210 disclosed during the previous twelve months any such third party
211 fees.

212 (b) Prior to any quasi-public agency as defined in section 1-120 of
213 the general statutes, entering into a contract for the investment of any
214 funds in any security, any broker or dealer in securities, investment

215 manager or securities fund manager who would be a party to that
216 contract shall disclose to the quasi-public agency entering into the
217 contract and to the Department of Banking, in writing, all third party
218 fees attributable to such contract. Information disclosed under this
219 subsection shall be made available for public inspection. The direct
220 purchase or sale of individual securities under any such contract shall
221 be executed only through banks, brokers, or dealers that have
222 disclosed during the previous twelve months any such third party
223 fees.

224 (c) For purposes of this section and section 6 of this act, "third party
225 fees" shall include, but not be limited to, management fees, placement
226 agent fees, solicitation fees, referral fees, promotion fees, introduction
227 or matchmaker fees, and due diligence fees.

228 Sec. 6. (NEW) (a) The Treasurer shall not direct the payment of any
229 third party fees to any person other than third party fees paid in
230 connection with state bond sales.

231 (b) Neither the Treasurer, nor any agent or employee of the
232 Treasurer, shall make use of any credit or thing of value given by a
233 broker or firm in connection with the investment of trust funds.

234 Sec. 7. (NEW) (a) No person may, directly or indirectly, pay a
235 finder's fee to any person in connection with any transaction involving
236 the state or any political subdivision of the state. No person may,
237 directly or indirectly, receive a finder's fee in connection with any
238 transaction involving the state or any political subdivision of the state.

239 (b) For purposes of this section:

240 (1) "Finder's fee" means compensation in the form of cash, cash
241 equivalents, or other things of value paid or received in connection
242 with an investment transaction to which the state, any political
243 subdivision of the state, or any quasi-public agency, as defined in
244 section 1-120 of the general statutes, is a party for any services, and

245 includes, but is not limited to, any fee paid for lobbying services, as
246 defined in subsection (l) of section 1-91 of the general statutes.

247 (2) "Finder's fee" does not mean (1) compensation earned in
248 connection with the rendering of investment services as defined in
249 subsection (f) of section 9-333n of the general statutes; or (2)
250 management fees, marketing fees, or due diligence fees (A) earned by
251 the payee in connection with the offer, sale or purchase of any security
252 or investment interest, as defined in regulations adopted by the
253 Treasurer in accordance with the provisions of chapter 54 of the
254 general statutes, and (B) paid to persons who are investment
255 professionals engaged in the ongoing business of representing
256 investment managers.

257 (3) "Investment professional" means an individual or firm whose
258 primary business is bringing together investors and investment
259 opportunities and who (A) is a broker-dealer or investment advisor
260 licensed or registered (i) under the Connecticut Uniform Securities Act;
261 (ii) with the Securities and Exchange Commission, in accordance with
262 the Investment Advisors' Act of 1940 or the Securities Exchange Act of
263 1934 or (iii) with the National Association of Securities Dealers in
264 accordance with the Securities Exchange Act of 1934, or (B) (i)
265 furnishes an investment manager with marketing services including,
266 but not limited to, developing an overall marketing strategy focusing
267 on more than one investor, designing or publishing marketing
268 brochures or other presentation material such as logos and brands for
269 investment products, responding to requests for proposals, completing
270 investment consultant questionnaires, identifying a range of potential
271 investors, assisting in sales presentations, or such other services as may
272 be identified in regulations adopted by the Treasurer, in accordance
273 with the provisions of chapter 54 of the general statutes, and (ii) has
274 contacts with more than ten potential investors in the preceding twelve
275 months or was involved in more than one transaction or potential
276 transaction in the preceding twelve months.

277 Sec. 8. Section 36b-28 of the general statutes is repealed and the
278 following is substituted in lieu thereof:

279 (a) Any person who wilfully violates any provision of subsection (a)
280 of section 36b-4 or subsection (a) or (f) of section 36b-5 or section 7 of
281 this act shall be fined not more than ten thousand dollars or
282 imprisoned for not more than ten years or both.

283 (b) Any person who wilfully violates any other provision of sections
284 36b-2 to 36b-33, inclusive, or section 5 of this act shall be fined not
285 more than two thousand dollars or imprisoned for not more than two
286 years or both.

287 (c) Any fine imposed for violation of section 5 or 7 of this act shall
288 be paid to the Treasurer who shall deposit such moneys on a pro rata
289 basis in trust funds, as defined in section 3-13c, affected by such
290 violation.

291 (d) No information may be returned under sections 36b-2 to 36b-33,
292 inclusive, more than five years after the alleged violation.

293 Sec. 9. Section 1-89 of the general statutes is amended by adding
294 subsection (d) as follows:

295 (NEW) (d) Any fines, penalties or damages paid, collected or
296 recovered under section 1-88 or this section for a violation of any
297 provision of this part applying to the office of the Treasurer shall be
298 deposited on a pro rata basis in any trust funds, as defined in section 3-
299 13c, affected by such violation.

300 Sec. 10. Section 1-100 of the general statutes is repealed and the
301 following is substituted in lieu thereof:

302 (a) Any person who intentionally violates any provision of this part
303 shall be imprisoned for a term not to exceed one year or shall be fined
304 an amount not to exceed two thousand dollars, or both.

305 (b) Any fines, penalties or damages paid, collected or recovered
306 under section 1-99 or this section for a violation of any provision of this
307 part applying to the office of the Treasurer shall be deposited on a pro
308 rata basis in any trust funds, as defined in section 3-13c, affected by
309 such violation.

310 Sec. 11. Subdivision (2) of section 9-7b of the general statutes is
311 repealed and the following is substituted in lieu thereof:

312 (2) To levy a civil penalty not to exceed (A) two thousand dollars
313 per offense against any person the commission finds to be in violation
314 of any provision of chapter 145, part V of chapter 146, part I of chapter
315 147, chapter 148, section 9-12, subsection (a) of section 9-17, section 9-
316 19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h, 9-23j to 9-
317 23o, inclusive, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-
318 50a, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-409, 9-410, 9-412, 9-436, 9-
319 436a, 9-453e to 9-453h, inclusive, 9-453k or 9-453o, or (B) two thousand
320 dollars per offense or twice the amount of any improper payment or
321 contribution, whichever is greater, against any person the commission
322 finds to be in violation of any provision of chapter 150. The
323 commission may levy a civil penalty against any person under
324 subparagraph (A) or (B) of this subdivision only after giving the
325 person an opportunity to be heard at a hearing conducted in
326 accordance with sections 4-176e to 4-184, inclusive. In the case of
327 failure to pay any such penalty levied pursuant to this subsection
328 within thirty days of written notice sent by certified or registered mail
329 to such person, the superior court for the judicial district of Hartford,
330 on application of the commission, may issue an order requiring such
331 person to pay the penalty imposed and such court costs, sheriff's fees
332 and attorney's fees incurred by the commission as the court may
333 determine. Any civil penalties paid, collected or recovered under
334 subparagraph (B) of this subdivision for a violation of any provision of
335 chapter 150 applying to the office of the Treasurer shall be deposited
336 on a pro rata basis in any trust funds, as defined in section 3-13c of the
337 general statutes, affected by such violation.

338 Sec. 12. Subsection (a) of section 9-333y of the general statutes is
339 repealed and the following is substituted in lieu thereof:

340 (a) Any person who knowingly and wilfully violates any provision
341 of this chapter shall be fined not more than five thousand dollars or
342 imprisoned not more than five years or both. The Secretary of the State
343 or the town clerk shall notify the State Elections Enforcement
344 Commission of any such violation of which said secretary or such
345 town clerk may have knowledge. Any such fine for a violation of any
346 provision of this chapter applying to the office of the Treasurer shall be
347 deposited on a pro rata basis in any trust funds, as defined in section 3-
348 13c, affected by such violation.

349 Sec. 13. Subsection (b) of section 2-90 of the general statutes is
350 repealed and the following is substituted in lieu thereof:

351 (b) Said auditors, with the Comptroller, shall, at least annually and
352 as frequently as they deem necessary, audit the books and accounts of
353 the Treasurer, including, but not limited to, trust funds, as defined in
354 section 3-13c, and certify the results to the Governor. The auditors
355 shall, at least annually and as frequently as they deem necessary, audit
356 the books and accounts of the Comptroller and certify the results to the
357 Governor. They shall examine and prepare certificates of audit with
358 respect to the financial statements contained in the annual reports of
359 the Treasurer and Comptroller, which certificates shall be made part of
360 such annual reports. In carrying out their responsibilities under this
361 section, said auditors may retain independent auditors to assist them.

362 Sec. 14. Section 3-13a of the general statutes is repealed and the
363 following is substituted in lieu thereof:

364 (a) The Treasurer shall, with the advice and consent of the
365 Investment Advisory Council, appoint [an assistant treasurer for
366 investments] and fix the compensation of, a chief investment officer,
367 who shall serve at the pleasure of the Treasurer. Such [assistant] officer
368 shall be sworn to the faithful discharge of his duties. [He] Such officer

369 shall, under the direction of the Treasurer and subject to the provisions
370 of sections 3-13 to 3-13d, inclusive, and 3-31b, advise the Treasurer on
371 investing the funds of the state [. He] and shall report to the Treasurer
372 and the Investment Advisory Council on a quarterly basis regarding
373 the allocation of assets in the investments of trust funds and any
374 recommendations for changes to such allocation. Such officer shall
375 manage all information necessary for rendering informed decisions
376 with regard to the investment of all trust funds and shall make such
377 information available to the public by means which shall include, but
378 not be limited to, posting such information on a website on the Internet
379 or any other generally available online computer network. Such officer
380 shall also perform such other duties as the Treasurer may direct. In
381 addition to such [assistant treasurer] officer, the Treasurer may, with
382 the advice and consent of the Investment Advisory Council, appoint
383 investment officers and other personnel, to assist said [assistant
384 treasurer] chief investment officer, which officers and other personnel
385 shall serve at the pleasure of the Treasurer.

386 (b) The Treasurer may retain professional investment counsel to
387 evaluate and recommend to [him] to the Treasurer changes in the
388 portfolio of the state's trust and other funds. Said counsel shall inform
389 the Treasurer of suitable investment opportunities and shall
390 investigate the investment merit of any security or group of securities.

391 (c) The cost of operating the investment department including the
392 cost of personnel and professional investment counsel retained under
393 sections 3-13 to 3-13d, inclusive, and 3-31b shall be paid by the
394 Treasurer charging the income derived from the trust funds. The
395 Commissioner of Administrative Services and the Secretary of the
396 Office of Policy and Management shall render any administrative
397 assistance requested by the Treasurer and shall otherwise cooperate
398 with the Treasurer in carrying out the provisions of this subsection.

399 Sec. 15. Section 9-213 of the general statutes is repealed and the
400 following is substituted in lieu thereof:

401 (a) If the office of Secretary of the State [, Treasurer] or Comptroller
402 becomes vacant, the General Assembly, if in session, shall fill it; but, if
403 the vacancy occurs when the General Assembly is not in session or if
404 the General Assembly fails to make an appointment to fill the vacancy,
405 it shall be filled by the Governor.

406 (b) Any vacancy in the office of Attorney General shall be filled by
407 appointment by the Governor for the unexpired portion of the term.

408 (c) (1) If the office of the Treasurer becomes vacant, the General
409 Assembly, if in session, shall fill the vacancy for the unexpired portion
410 of the term. (2) If the vacancy occurs when the General Assembly is not
411 in session, or if the General Assembly fails to make an appointment to
412 fill the vacancy and the vacancy does not occur in the year in which a
413 state election is to be held for the office of the Treasurer, the Governor
414 shall appoint a person to serve as acting Treasurer until the next
415 regular session of the General Assembly at which time the Governor
416 shall nominate a successor for the office of Treasurer who shall be
417 subject to approval by the General Assembly. (3) If the vacancy occurs
418 when the General Assembly is not in session or if the General
419 Assembly fails to make an appointment to fill the vacancy and the
420 vacancy occurs in the year in which a state election is to be held for the
421 office of the Treasurer, the Deputy Treasurer shall fill the vacancy for
422 the unexpired portion of the term.

Statement of Purpose:

To strengthen the safeguards in the Office of the Treasurer regarding the investment of state trust funds and to deter corruption or malfeasance in such investment.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]